

**Assembly Bill No. 1870**

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Passed the Assembly August 31, 2006

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*Chief Clerk of the Assembly*

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Passed the Senate August 29, 2006

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 44017, 44021, 44062.1, and 44094 of, and to add Sections 44012.1 and 44062.3 to, the Health and Safety Code, relating to air pollution.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1870, Lieber. Air pollution: motor vehicle inspection and maintenance.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department. Existing law prohibits the operation of a motor vehicle in a manner that results in the escape of excessive smoke, flame, gas, oil, or fuel residue.

This bill would require the Department of Consumer Affairs to incorporate a visible smoke test into the motor vehicle inspection and maintenance program by January 1, 2008, so that any visible smoke from the tailpipe or crankcase of a motor vehicle during an inspection would result in a failure of the test. The bill would provide that steam resulting from condensation by itself shall not lead to an inspection failure. The bill would authorize a motor vehicle owner who disputes the failure of a visible smoke test to seek resolution of the matter by contacting the state-designated referee. The bill would require the department, in consultation with the State Air Resources Board and interested parties, to adopt regulations to implement these provisions.

(2) Existing law establishes the Inspection and Maintenance Review Committee to analyze the effect of the improved inspection and maintenance program on motor vehicle emissions and air quality, as specified. Existing law requires the review committee to submit periodic written reports to the Legislature and the Governor on the performance of the program, including quantification of the reduction in emissions and improvement in air quality attributed to the program, and make recommendations on program improvements at least every 12 months.

This bill would require the review committee, on or before July 1, 2010, to include a discussion of the effectiveness of the visible smoke test component of the inspection and maintenance program in its periodic reports to the Legislature and the Governor, as specified.

(3) Existing law provides for a repair cost waiver for a vehicle that has been properly tested but does not meet the applicable emission standards, if it is determined that no adjustment or repair can be made that will reduce emissions from the inspected vehicle without exceeding specified repair cost limits.

This bill would require that no repair cost waiver be issued where a motor vehicle has failed the visible smoke test unless specified exceptions apply.

(4) Existing law provides for a repair assistance program available to an individual whose maximum income level is 200 percent of the federal poverty level and is the owner of a motor vehicle that has failed a smog check inspection or received a notice to correct, as specified, or an individual who has failed a smog check inspection and is directed to a test-only facility, as specified. Existing law provides that the department may increase its contribution toward the repair of a motor vehicle in excess of \$450, if the department determines that the expenditure is cost effective.

This bill would require the department to consider a failure of the visible smoke test and the costs associated with repairing a smoking vehicle in making this determination.

(5) Existing law provides that the department may specify the amount of money that may be paid to an owner of a high-polluting motor vehicle who voluntarily retires the vehicle. Existing law requires that the department base the amount on the cost-effectiveness and the air quality benefit of retiring the vehicle, as determined by the department.

This bill would allow the owner of a motor vehicle that has failed its most recent smog check inspection to retire the vehicle from operation at a dismantler under contract with the Bureau of Automotive Repair, and would require the department to pay this person up to \$1,500, or more as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 44012.1 is added to the Health and Safety Code, to read:

44012.1. (a) The department shall incorporate a visible smoke test into the motor vehicle inspection and maintenance program by January 1, 2008. Any visible smoke from the tailpipe or crankcase of a motor vehicle during an inspection constitutes a failure. Steam from condensation by itself shall not lead to an inspection failure.

(b) If an owner of a motor vehicle disputes the failure of a visible smoke test, the owner may seek resolution of the dispute from the state-designated referee.

(c) The department, in consultation with the state board and interested parties, shall adopt regulations to implement this section. No new equipment shall be required to implement the visible smoke test.

(d) If the implementation of the visible smoke test required by subdivision (a) requires modification of the Emission Inspection System software or Vehicle Information Database, that modification shall be performed as part of the ordinary, periodic upgrade to these systems.

SEC. 2. Section 44017 of the Health and Safety Code is amended to read:

44017. (a) Except as otherwise provided in this section or Section 44017.1, a motor vehicle owner shall qualify for a repair cost waiver only after expenditure of not less than four hundred fifty dollars (\$450) for repairs, including parts and labor.

(b) The limit established pursuant to subdivision (a) shall not become operative until the department issues a public notice declaring that the program established pursuant to Section 44010.5 is operational in the relevant geographical areas of the state, or until the date that testing in those geographic areas is operative using loaded mode test equipment, as defined in this article, whichever occurs first. Prior to that time, the following cost limits shall remain in effect:

(1) For motor vehicles of 1971 and earlier model years, fifty dollars (\$50).

(2) For motor vehicles of 1972 to 1974, inclusive, model years, ninety dollars (\$90).

(3) For motor vehicles of 1975 to 1979, inclusive, model years, one hundred twenty-five dollars (\$125).

(4) For motor vehicles of 1980 to 1989, inclusive, model years, one hundred seventy-five dollars (\$175).

(5) For motor vehicles of 1990 to 1995, inclusive, model years, three hundred dollars (\$300).

(6) For motor vehicles of 1996 and later model years, four hundred fifty dollars (\$450).

(c) The department shall periodically revise the repair cost limits specified in subdivisions (a) and (b) in accordance with changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) No repair cost limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with.

(e) (1) No repair cost waiver shall be issued where a motor vehicle has failed the visible smoke test created by the department pursuant to Section 44012.1, unless paragraph (2) applies, or the vehicle is owned by a low-income person, as defined in Section 44062.1 in which case the repair cost limit applicable pursuant to subdivision (b) of Section 44017.1 shall apply.

(2) By January 1, 2008, the department shall adopt regulations allowing a repair cost waiver, with the repair cost limit specified in subdivision (a), where a motor vehicle has failed the visible smoke test component of a smog check inspection, for individuals under economic hardship but who do not meet the definition of low-income person, as defined in Section 44062.1. The regulations shall make eligible for the waiver those individuals whose household means fall below the level necessary to achieve a modest standard of living without assistance from public programs. The department shall consult authoritative information sources including, but not limited to, the United States Census Bureau, the Department of Finance, and the California Budget Project.

SEC. 3. Section 44021 of the Health and Safety Code is amended to read:

44021. (a) (1) The Inspection and Maintenance Review Committee is hereby created to analyze the effect of the improved inspection and maintenance program established by

this chapter on motor vehicle emissions and air quality. The functions of the review committee shall be advisory in nature and primarily pertain to the gathering, analysis, and evaluation of information.

(2) The members of the review committee shall receive no compensation, but shall be reimbursed by the department for their reasonable expenses in performing committee duties. The state board and the department shall provide the review committee with any necessary technical and clerical support in its evaluation and study.

(3) (A) The review committee shall consist of 13 members, nine to be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. All members shall be appointed to four-year terms, and the Governor shall appoint from among his or her appointees the chairperson of the review committee.

(B) The appointees of the Governor shall include an air pollution control officer from an enhanced program nonattainment area, three public members, an expert in air quality, an economist, a social scientist, a representative of the inspection and maintenance industry, and a representative of stationary source emissions organizations.

(C) The appointees of the Senate Committee on Rules shall include an environmental member with expertise in air quality, and a representative from the inspection and maintenance industry.

(D) The appointees of the Speaker of the Assembly shall include an environmental member with expertise in air quality, and a representative of a local law enforcement agency charged with prosecuting violations of this chapter in an enhanced program nonattainment area.

(4) In preparing its evaluations of program effectiveness as provided in paragraph (1), the review committee shall consult with the Department of the California Highway Patrol, the Department of Motor Vehicles, and any other appropriate agencies, as well as the department and the state board, shall schedule and conduct periodic meetings in the performance of its duties, and shall meet and consult with local, state, and federal officials involved in the evaluation of motor vehicle inspection and maintenance programs. At the request of the committee, the

department or the state board may, on behalf of the committee, contract with independent entities to assist in the committee's evaluations.

(b) The review committee shall submit periodic written reports to the Legislature and the Governor on the performance of the program and make recommendations on program improvements at least every 12 months. The periodic reports shall quantify the reduction in emissions and improvement in air quality attributed to the program. On or before July 1, 2010, the review committee shall, in consultation with the department and the state board, include a discussion of the effectiveness of the visible smoke test component of the inspection and maintenance program, including the impact of the visible smoke test on the smog check industry and vehicle owners who fail the test, and an estimate of the reduction in particulate emissions, in the periodic reports required by this subdivision. Any reports, other than those required by this section, that the review committee is required to provide pursuant to this chapter shall also be transmitted to the Secretary for Environmental Protection and the Secretary for State and Consumer Services.

(c) The review committee shall work closely with all interested parties in preparing the information required by subdivisions (a) and (b) and shall consider the reports provided pursuant to subdivision (e). The review committee shall hold at least one public hearing on its findings and recommendations prior to submitting its reports. The reports shall include statutory language to implement its recommendations, and shall recommend the timeframe for making any changes to the program. The review committee shall seek comments from the department, the Department of Motor Vehicles, the Department of the California Highway Patrol, and the state board prior to submitting its reports, and those comments shall be published as an appendix to the report.

(d) The review committee shall participate in the demonstration program authorized by Section 44081.6, as provided by that section.

(e) The state board, in cooperation with the department, shall periodically submit reports to the review committee. The reports shall include an assessment of the impact on emissions of continuing the exemption from inspection of motor vehicles

newer than five years old; a comparison of the actual mass emissions reductions being achieved by the enhanced program to those required by the State Implementation Plan; and recommendations to improve the effectiveness and cost-effectiveness of the program, including specific recommendations addressing any discrepancy between emissions achieved and those in the State Implementation Plan. The first report shall be submitted not later than January 1, 2000, and reports shall be submitted triennially thereafter. In preparing the reports, the state board shall use data collected during inspections and repairs, and data collected using roadside measurements, and may conduct additional testing, as determined to be necessary, to accurately quantify the mass emissions reduced.

SEC. 4. Section 44062.1 of the Health and Safety Code is amended to read:

44062.1. (a) The department shall offer a repair assistance program through entities authorized to perform referee functions.

(b) (1) The repair assistance program shall be available to the following eligible individuals:

(A) An individual who has a maximum income level of 200 percent of the federal poverty level, as published quarterly in the Federal Register by the Department of Health and Human Services, and who is either or both of the following:

(i) The owner of a motor vehicle that has failed a smog check inspection.

(ii) The owner of a motor vehicle who was issued a notice to correct for an alleged violation of Section 27153 or 27153.5 of the Vehicle Code involving that vehicle, if the vehicle subject to that notice has failed a smog check inspection subsequent to receiving the notice.

On and after January 1, 2009, the maximum income level prescribed for this subparagraph shall be set at 185 percent of the federal poverty level, as published quarterly in the Federal Register by the United States Department of Health and Human Services.

(B) An individual who is the owner of a motor vehicle that has failed a smog check inspection and is directed to a test-only facility pursuant to Section 44010.5 or 44014.7. If the department determines that applications for repair assistance exceed the amount of funds available, to the maximum extent possible,



applications from low-income motor vehicle owners shall be given priority over other applications.

(2) The department shall offer repair cost assistance, funded by the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund created pursuant to subdivision (a) of Section 44091, to individuals based on the cost-effectiveness and air quality benefit of the needed repair. Repair assistance may include retesting costs and the costs of repairs to remedy the violation of Section 27153 or 27153.5 of the Vehicle Code.

(3) An applicant for repair assistance shall file an application on a form prescribed by the department and shall certify under penalty of perjury that the applicant meets the applicable eligibility standards.

(4) Verification of income eligibility shall be based on at least one form of documentation, as determined by the department, including, but not limited to, (A) an income tax return, (B) an employment warrant, or (C) a form of public assistance verification.

(c) The repair assistance program shall be funded by the High Polluter Repair or Removal Account.

(d) Repairs to motor vehicles that fail smog check inspections and are subsidized by the state through the program shall be performed at a repair station licensed and certified pursuant to Sections 44014 and 44014.2. Repair shall be based upon a preapproved list of repairs for cost-effective emission reductions or repairs to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

(e) The qualified low-income motor vehicle owner receiving repair assistance pursuant to this section shall contribute a copayment, as determined by the department as specified in Section 44017.1, either in cash, or in emissions-related partial repairs as verified by a test-only station pursuant to paragraph (2) of subdivision (c) of Section 44015, or a combination thereof. For an owner of a motor vehicle described in subparagraph (B) of paragraph (1) of subdivision (b), the department shall impose a copayment at least equivalent to the amount imposed on a low-income individual receiving assistance under this section. If the repair cost exceeds the applicable repair cost limit, the department shall inform a motor vehicle owner of all options for compliance at the time of testing and repair.

(f) The department may increase its contribution toward the repair of a motor vehicle under this program in excess of the amount authorized for the repair of a high-polluter pursuant to paragraph (1) of subdivision (b) of Section 44094, if the department determines that the expenditure is cost-effective. In determining the cost effectiveness of the expenditure, the department shall consider a failure of the visible smoke test, pursuant to Section 44012.1, and the costs associated with repairing a smoking vehicle.

(g) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (b), the department may increase the maximum income level of a low-income motor vehicle owner under this program from the amount specified in this section, not to exceed 225 percent of the federal poverty level, if the department determines that the increase is capable of being supported within existing budget allocations.

(h) The department shall collect data from the program to provide information on how to improve the program. Data collection shall include all of the following:

(1) The number of motor vehicle owners that are eligible for repair assistance.

(2) The number of eligible motor vehicle owners that use repair assistance funds.

(3) The potential for fraud.

(4) The average repair bills.

(5) The types of repairs being done.

(6) The amount of partial repairs done prior to receipt of repair assistance.

(7) The emissions benefits of providing repair assistance.

(i) For purposes of this section, “low-income motor vehicle owner” means a person whose income does not exceed 200 percent of the federal poverty level.

SEC. 5. Section 44062.3 is added to the Health and Safety Code, to read:

44062.3. The owner of a motor vehicle that has failed its most recent smog check inspection may retire the vehicle from operation at a dismantler under contract with the Bureau of Automotive Repair. The department shall pay a person who retires his or her vehicle under this section up to one thousand five hundred dollars (\$1,500). The department may pay an owner

of a motor vehicle who elects to retire the vehicle more than one thousand five hundred dollars (\$1,500), if the department determines that this payment is cost effective.

SEC. 6. Section 44094 of the Health and Safety Code is amended to read:

44094. (a) Participation in the high polluter repair or removal program specified in this article and Article 10 (commencing with Section 44100) shall be voluntary and shall be available to the owners of high polluters that are registered in an area that is subject to an inspection and maintenance program, have been registered for at least 24 months in the district where the credits are to be applied and, are presently operational, and meet other criteria, as determined by the department.

(b) The program shall provide for both of the following:

(1) As to the repair of a high polluter, payment to the owner of up to 80 percent of the total cost of repair, as determined by the department, but the payment shall not exceed four hundred fifty dollars (\$450).

(2) As to the removal of a high polluter, the program shall be subject to Article 10 (commencing with Section 44100).

(c) Except as provided in Section 44062.3, the department may specify the amount of money that may be paid to an owner of a high-polluting motor vehicle who voluntarily retires the vehicle. The amount paid by the department shall be based on the cost-effectiveness and the air quality benefit of retiring the vehicle, as determined by the department.

(d) The department may authorize participation in the program based on a reasonable estimate of the future revenues that will be available to the program.









Approved \_\_\_\_\_, 2006

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*Governor*